

**Title 16, Division 13.7, Article 8, Sections 1399.480,1399.489, and 1399.489.1
California Code of Regulations**

Acupuncture Board

Final Statement of Reasons

Continuing Education: Law and Ethics Requirement

Section Affected: California Code of Regulations (CCR), Title 16, Division 13.7, Article 8, Sections 1399.480, 1399.489, and 1399.489.1

Updated Information

The Informative Digest and Initial Statement of Reasons are included in the rulemaking file and incorporated as though set forth herein.

The Acupuncture Board (Board) mailed the rulemaking package notice and sent out the notice via email listserv on October 6, 2023. The Office of Administrative Law (OAL) officially noticed the package on October 6, 2023, and the 45-day comment period was through November 21, 2023. The Board received two (2) comments during the public comment period. There was no request for a public hearing past the deadline, and no separate public hearing was held. The Board considered these comments at the March 22, 2024, Board Meeting, rejected the comments and approved the proposed responses, and voted to adopt the proposed text as noticed, delegating any non-substantive or technical changes to the Executive Officer.

As part of the response to the two (2) public comments, the Board included an attachment with a list of continuing education (CE) courses that was produced by a search of the Board's CE database on its website using the keyword "ethics." The Board electronically mailed notice of the document added to the rulemaking record on May 6, 2024 to persons specified in subsections (a)(1) through (4) of Section 44 of Title 1 of the California Code of Regulations. A 15-day comment period was held which ended May 21, 2024. No comments were received in response.

Update to Initial Statement of Reasons

Under "Underlying Data", corrected Item F. and G. agenda item "20" to "21" and added Item I. Sample List of CE Courses (Item 13 from Table of Contents). The list of "Underlying Data" is updated as follows:

- A. Acupuncture Board's Top Ten Violations published March 2019
- B. Acupuncture Board's February 16, 2012 meeting minutes – Agenda Item 9b

- C. Acupuncture Board's November 15, 2012 meeting minutes – Agenda Item 7
- D. Acupuncture Board's Education Committee December 14, 2016 meeting minutes – Agenda Item 3
- E. Acupuncture Board's October 25 – 26, 2018 meeting minutes – Agenda Item 8
- F. Acupuncture Board's March 25 – 26, 2021 meeting minutes – Agenda Item 21
- G. Acupuncture Board March 25 – 26, 2021 Meeting materials of Item 21, Discussion on the Initiation of a Rulemaking to Amend Title 16, California Code of Regulations (CCR) secs. 1399.483 and 1399.489 – Continuing Education Ethics Requirement
- H. Acupuncture Board's June 23, 2023 Agenda, meeting minutes and materials - Agenda Item 7
- I. Sample List of CE Ethics Courses as of 12/20/23 (Item 13 from Table of Contents)

Amend structure, syntax, cross-reference, grammar, or punctuation throughout the regulation that does not materially alter any requirement, right, responsibility, condition, prescription or other regulatory element of any CCR provision.

The Board adds commas and other punctuation and corrects capitalization for consistency.

Amend CCR Section 1399.489(h)

The Board removes the word "credit" before "for each classroom" from subsection (h) of CCR section 1399.489 to align with the corrections made in response to the erratum correction under OAL matter 2008-0724-04SR.

Update to Notice of Proposed Regulatory Action

The following text is added to the "Effect on Small Businesses" section of the Notice to make consistent with the business impacts included in the Initial Statement of Reasons:

The amendments to CCR section 1399.489(c) should not cause any economic impact to licensees since the overall total of CE hours is not increasing. The new requirement only prescribes that a licensee's total 50 hours of CE must now consist of 4 (four) hours of law and ethics. In addition, the price of law and ethics courses are not priced higher than other kinds of CE courses.

Objections or Recommendations/Responses

During the 45-day comment, ending on November 21, 2023, the Board received one (1) comment opposing, and one non-substantive comment. Below is a summary of the comments and the Board's responses.

Comment A-1

A. Email received October 6, 2023, from Commenter 1

Summary of Comment:

The commenter suggested that there might not be enough material about law and ethics to learn about every 2 years, opining that every 8 to 10 years there would still “not have much that is new to learn.” The commenter suggested that 2 hours of law and ethics would be more reasonable and effective.

Response to Comment:

The Board has reviewed and considered the opposing comments and declines to make any amendments to the proposed text based thereon.

As described on pages 5-10 of the Initial Statement of Reasons, the proposed regulatory text establishes that four (4) hours of continuing education (CE) in law and ethics is appropriate. In the Board’s experience, the Board’s proposal to set the minimum hours of law and ethics at four (4) hours in the two (2) years immediately preceding expiration date is sufficient to meet these public protection goals and ensure thorough understanding and notice of the current standards of the law and professional practice. The requirements to take law and ethics on renewal is also consistent with the public policies of other similar healing arts licensing boards, i.e. Board of Chiropractic Examiners and Physical Therapy Board (see e.g., CCR sections 361 and 1399.93).

In response to the commenter’s statement that there won’t be enough material about laws and ethics to comply with the proposal, Board staff conducted a search on the Board’s website in the CE Connect portal. Results for current Board-approved CE related to ethics produced 97 separate courses that amounts to 725.5 hours (see Table of Contents Item 13). In addition, the topics of ethics and laws can pertain to different specialties, concentrations, and subject matter. There are constant changes with best practices and medical/industry standards that a licensee should be updated on every two years. Based on current coursework available, the relevant material to meet the proposed minimum four (4) hours is abundant.

Comment B-1

B. Email received October 11, 2023, from Commenter 2

Summary of Comment:

The commenter asked the Board when the new requirement for law and ethics, is effective, and stated that they are about to renew their license and could only find 2 CEU programs about law and ethics.

Response to Comment:

The Board has reviewed and considered the comment and declines to make any amendments to the proposed text based thereon.

The comment is a question, and the Board responded that it will be effective in the future. The nature of the comment has no substantive material and, therefore, will not impact the regulation text.

Local Mandate

A mandate is not imposed on local agencies or school districts.

Consideration of Alternatives

No reasonable alternative which was considered or that has otherwise been identified and brought to the attention of the Board would be more effective in carrying out the purpose for which it was proposed or would be as effective and less burdensome to affected private persons than the adopted regulations or would be more cost effective to affected private persons and equally effective in implementing the statutory policy or other provision of law. The Board incorporates by reference the alternatives identified in its Initial Statement of Reasons and did not receive any comments that altered its findings.